Item No. 1008-D X 96-2: H.Rp. 172/pt.3

96TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPT. 96-172 Part III

COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

JUNE 20, 1980.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

COMPLETED ORIGINAL

REPORT

[To accompany H.R. 85]

The Committee on Ways and Means, to whom was referred the bill (H.R. 85) to provide a comprehensive system of liability and compensation for oil-spill damage and removal costs, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is a new title to be added at the end of both the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries and the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation, and appears in the reported bill in boldface italic type.

WAYS AND MEANS COMMITTEE AMENDMENT TO H.R. 85, THE COMPREHENSIVE OIL POLLUTION LIABILITY AND COMPENSATION ACT

H.R. 85, the Comprehensive Oil Pollution Liability and Compensation Act, has been considered and reported favorably by the Committee on Merchant Marine and Fisheries (H. Rept. 96-172, part I) and the Committee on Public Works and Transportation (H. Rept. 96-172, part I). H.R. 85 then was referred sequentially to the Committee on Ways and Means for consideration of the revenue aspects of the legislation, which properly fall within the jurisdiction of the Committee on Ways and Means. Specifically, the Committee on Ways and Means has considered the revenue issues related to the establishment of taxes on crude oil, petrochemical feedstocks, and certain specified inorganic chemicals for use to provide revenues to cleanup discharges of oil and hazardous substances into the navigable waters of the United States. As a result of this consideration, the Committee on Ways and Means favorably reports H.R. 85 with a committee amendment in the form of a new title.

(17)

I. SUMMARY

The Ways and Means Committee amendment to H.R. 85 imposes excise taxes on crude oil, specified petrochemical feedstocks, and specified inorganic substances. These excise taxes are expected to raise $75 million a year from oil, $50 million from petroleum feedstocks and $25 million from inorganic chemicals. Revenues from the excise tax on crude oil (1.5 cents a barrel) are to be deposited into a new "Comprehensive Oil Pollution Liability Trust Fund," the proceeds of which can be used to finance cleanup costs and pay claims for certain damages resulting from the discharge of oil into the navigable waters of the United States. Similarly, revenues from the excise taxes on petroleum feedstocks ($1.18 a ton) and on specified inorganic chemicals ($0.31 a ton) are to be deposited into a new "Hazardous Substance Pollution Liability Trust Fund," the proceeds of which can be used to finance cleanup costs and to pay certain claims arising from discharges of hazardous substances into the navigable waters of the United States.

These new trust funds will absorb or replace other Federal funds relating to oil and hazardous substance liability—including the Offshore Oil Pollution Compensation Fund, the Trans-Alaska Pipeline Liability Fund, the Deep Water Port Fund, and the section 311 revolving fund of the Clean Water Act. In addition to financing cleanup and removal costs, both Trust Funds could pay claims for (1) property damage, (2) loss of income by fishermen, and (3) destruction of natural resources (if the claim is asserted by the President or by a State). The Trust Funds cannot borrow from the United States Treasury, and no claim against a Trust Fund constitutes an entitlement from the United States. Claims against a Trust Fund will be payable only to the extent the Trust Fund has assets in excess of a $50 million "cleanup reserve." Claims which are unpaid due to this reserve requirement will be deferred until excise tax revenues become available to pay them. The excise taxes will terminate on September 30, 1985, and payments out of the fund will be prohibited after that date unless further action is taken by the Congress.

II. EXPLANATION OF WAYS AND MEANS COMMITTEE AMENDMENT TO H.R. 85

A. Present Law

Excise taxes

Under present law, excise taxes are imposed upon the manufacture, production, removal, sale, supply, or use of various items or services. In some instances, revenues from these taxes are deposited into specially designated trust funds. Examples of such earmarked excise taxes include the Black Lung coal tax (Code sec. 4121), which is deposited into the Black Lung Disability Trust Fund, aviation-related taxes (e.g., Code secs. 4261, 4271), which are deposited into the Air-

port and Airway Trust Fund, highway-related taxes (e.g., Code secs. 4041 and 4081 (fuels), 4071 (tires, etc.)) which are deposited into the Highway Trust Fund and inland waterway taxes (Code sec. 4042) which are deposited into the Inland Waterways Trust Fund.

Under present law, there is excise tax imposed generally with respect to substances, such as crude oil, petrochemical feedstocks, and inorganic chemicals, which may cause environmental pollution or other damage. However, charges (fees) are imposed under present law on oil produced on the Outer Continental Shelf and on Alaskan North Slope oil transported through the Trans-Alaska Pipeline System (TAPS). These charges are described below.

Funds

Present law contains no specially designated fund intended to provides monies for cleanup, or to compensate for economic losses due to all types, of environmentally hazardous pollution. However, there are various Federal and State funds designed to accomplish these purposes as to specific locations, damages or losses, and certain type of spills, discharges and pollution. Some of these funds, and related provisions, are described below.

Federal Water Pollution Control Act ("Clean Water Act"), Section 311

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1331) establishes a $35 million revolving fund maintained by fines, penalties and appropriations of general revenue. The fund may be used for cleanup of releases of oil and designated hazardous substances into navigable waters and for restoration of accompanying natural resources. The Act also establishes certain rules pertaining to responsibility for cleanup expenses and authorizes the fund to seek reimbursement from parties who release oil or designated hazardous substances into navigable waters.

The Trans-Alaska Pipeline Authorization Act (TAPAA)

The TAPAA (43 U.S.C. sec. 1651) established a $100 million Trans-Alaska Pipeline Liability Fund, and required the pipeline system to collect and deposit a $.05 charge for each barrel of oil passing through TAPS. The Liability Fund is a quasi-public entity, and its revenues are intended to be used to compensate for damages, including cleanup, restoration of natural resources, and economic loss, resulting from spills of oil transported through TAPS. Liability of owners and operators is defined, and the Liability Fund may seek to recover its expenses from responsible parties. Because of the $100 million ceiling to which the Fund is subject, the fee is suspended for such time as that maximum is maintained.

Outer Continental Shelf Amendments of 1978

A $200 million Offshore Oil Pollution Compensation Fund was established in the Treasury by the 1978 amendments to the Outer Continental Shelf Lands Act (43 U.S.C. sec. 1331). This Fund consists of monies generated by a fee of not more than $.03 a barrel imposed on owners of oil from the Outer Continental Shelf. The fee is collected by the Internal Revenue Service, and may be reduced when the balance in the Fund reaches the $200 million cap. The Fund may be used to compensate for damages, including cleanup, property damage, and loss of income and tax revenue, resulting from spills of oil produced on the

Outer Continental Shelf. Liability and financial responsibility requirements for facilities and vessels are defined, and the Fund may seek to recover its expenses from responsible parties. Collection of the fee is not subject to the generally applicable IRS enforcement powers.

Deep Water Port Act of 1974

The Deep Water Port Act of 1974 (33 U.S.C. sec. 1502), established a $100 million fund to compensate for damages resulting from oil pollution from vessels or facilities engaged in deep water port operations. When operational, this fund will be maintained by a $.02 a barrel fee assessed on oil loaded at a deep water port.

Resource Conservation and Recovery Act

The Resource Conservation and Recovery Act provides for the regulation and control of the generation, treatment and disposal of hazardous wastes. Permits are required for treatment or storage facilities. The Environmental Protection Agency may sue to require cleanup of an inactive disposal site if the site is posing an imminent and substantial hazard to public health. However, this provision does not provide funds for cleanup of inactive sites when the owner is unknown, is not responsible, or is financially unable to pay for these costs.

B. Reasons for Change

The Committee on Ways and Means believes that it is important to establish readily available sources of funds to cleanup pollution from designated environmentally hazardous items, and to provide compensation for specified economic losses resulting from such pollution. The committee, however, does not believe that the United States Government should have to bear these costs. It further believes that these cleanup and compensatory costs generally should be imposed upon the party responsible for them, and alternatively upon the class of persons who create environmentally hazardous items most frequently.

To accomplish these goals, the committee has decided that it is appropriate to impose excise taxes on certain items which may result in environmentally hazardous pollution if spilled or discharged or which are used to produce hazardous material. The committee also has decided that revenues from these taxes should be earmarked for inclusion in two new trust funds for payments of cleanup costs and specified compensatory damages. Because the precise scope of the various problems relating to environmentally hazardous pollution, and the need for funds to remedy it, are not readily ascertainable, the committee has decided to make both the taxes and authority to spend from trust funds terminate at the end of September 1985 so that Congress may reexamine the situation.

The committee amendment includes a requirement that the Secretary of the Treasury, in consultation with the Department of Transportation, the Environmental Protection Agency, the Department of Commerce and the Special Trade Representative, conduct a study on the feasibility of (1) imposing environmental excise taxes on the basis of the frequency of pollution by hazardous substances and the degree of environmental harm resulting from such pollution, and (2) adjusting the environmental taxes according to various modes of transportation. The Secretary is to report to the Congress not later than January 1, 1985.

C. Explanation of Provisions

1. Environmental excise taxes

a. Petroleum tax (sec. 511 of the amendment and new secs. 4611–4612 of the Code)

The committee amendment imposes a specific excise tax (the "petroleum tax") of 1.3 cents a barrel on domestic crude oil and on petroleum products (including crude oil) entering the United States. The tax on domestic crude oil is imposed on the operator of any United States refinery receiving such crude oil. For this purpose, as under existing Treasury regulations, refining is any operation by which the physical or chemical characteristics of crude oil or its products are changed, exclusive of such operations as passing crude oil through separators or placing crude oil in settling tanks.

If crude oil is used in, or exported from, the United States before imposition of the petroleum tax, then the user or exporter of the oil is subject to the tax to the same extent as it would have been imposed had a United States refiner received the oil. The committee amendment clarifies the definition of taxable petroleum by defining oil that is subject to tax in a more precise manner. As a result, the amendment specifies that, for purposes of the petroleum tax, the term crude oil includes crude oil condensate and natural gasoline, but not other natural gas liquids. Thus, the term crude oil also does not include butane, ethane, or propane recovered from a natural gas stream. These substances, however, are taxed as "specified petrochemical feedstocks" under the chemical tax described below. In addition, taxable crude oil does not include crude oil used for extraction purposes on the premises where it was produced, such as for powerhouse fuel or for reinjection as part of a tertiary recovery process. Further, the term crude oil does not include synthetic petroleum, e.g., shale oil, liquids from coal, tar sands, or biomass, or rerefined oil (within the meaning of Code sec. 4093(b)(3)).

In the case of refiners that recover natural gasoline, the gasoline so recovered is treated as received by that refiner at the time it is recovered.

If natural gasoline is recovered in a gas separation plant rather than at a refinery, the tax is imposed when the gasoline is received at a refinery or when it is used or exported without passing through a refinery. Thus, a refiner must pay the same tax whether it purchases natural gasoline or wet gas from which it recovers natural gasoline.

Petroleum products entered into the United States for consumption, use or warehousing, are subject to a tax of 1.3 cents a barrel. This tax is imposed upon the person who enters such products. Generally, the term petroleum products includes crude oil, crude oil condensate, natural and refined gasoline, refined and residual oil, and any other hydrocarbon product derived from crude oil or natural gasoline which enters the United States in liquid form (unless such product is defined

as a petrochemical feedstock). For purposes of determining whether crude oil or petroleum products have been produced in, entered into, or exported from the United States, the term United States means the fifty States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any possession of the United States. The United States also includes the Outer Continental Shelf areas and foreign trade zones located within the United States. There is no exception in the tax for bonded petroleum products.

In the case of areas which are not subject to the general United States customs laws, an "entry" has occurred at any time that such an event would have occurred if the customs laws were applicable to that area. However, an "entry" is deemed not to have occurred in the case of fuel stores on a ship or the casual use of items on such as fuel in automobile's gas tank.

The committee amendment also provides that the petroleum tax is imposed only once with respect to any petroleum product. Anyone who otherwise is liable for the petroleum tax may establish that it already has been imposed with respect to that product.

The committee amendment provides special rules relating to the transfer of the Trans-Alaska Pipeline Liability Fund to the Oil Pollution Trust Fund. If the Secretary of the Treasury determines that there is a surplus in the former fund, such amount is treated as an advance payment of the petroleum tax imposed on the crude oil first transported through the TAPS after the date of the determination. If the Secretary, however, determines that there is a deficit in the transferred fund, the petroleum tax imposed on the crude oil first transported through the TAPS after that determination is increased by 2 cents a barrel until the amount of the increased tax equals the deficit.

The committee amendment contains no special administrative or compliance provisions relating to the petroleum tax. Instead, the existing rules relating to excise taxes apply. Thus, the Internal Revenue Service has its full range of administrative and compliance powers available for administering and collecting the tax. Similarly, the penalties contained in existing law apply, as appropriate, to the petroleum tax.

Effective date

The petroleum tax imposed by the committee amendment applies for the five-year period, October 1, 1980, through September 30, 1985.

b. Chemical tax (sec. 511 of the amendment and new secs. 4651–4652 of the Code)

The committee amendment also imposes specific excise taxes (the "chemical tax") on specified petrochemical feedstocks and on specified inorganic substances. The tax, which is similar to existing excise taxes, is imposed on any taxable chemical sold by the taxpayer, i.e., the manufacturer, producer, or importer of the chemical. If the taxpayer uses a taxable chemical prior to its sale, the tax is imposed as if the chemical had been sold.

The chemical tax on specified petrochemical feedstocks is $1.18 a ton. The feedstocks subject to tax are: ethylene, propylene, butylene, butadiene, butane, propane, benzene, toluene, nylene, napthalene, methane,

carbon black, and ethane. These feedstocks are subject to the chemical tax regardless of the source from which the feedstock is derived. As a result, feedstocks derived from synthetic petroleum are subject to the chemical tax.

There is no exemption from the chemical tax for petrochemical feedstocks used as fuel. Because petroleum fuels typically pass through the hands of numerous persons before they are burned by the ultimate consumer, it is unclear how such an exemption could be effectively administered. The cost of documenting ultimate fuel use under such circumstances might well cost more than the taxes saved. The committee amendment does require the Secretary of the Treasury to study the feasibility of providing an exemption for petrochemical feedstocks which are used as fuels.

The tax on specified inorganic substances is $0.31 a ton. The inorganic substances subject to the tax are:

(1) arsenic, cadmium, chromium, lead, mercury, and the equivalent weight of the foregoing elements in arsenic trioxide, chromite, chromic acid, sodium dichromate, potassium dichromate, and lead oxide;

(2) chlorine, hydrochloric acid, hydrofluoric acid, and the equivalent weight of bromine in methyl bromide and ethylene dibromide;

(3) phosphoric acid, sulfuric acid, nitric acid, potassium hydroxide, and sodium hydroxide; and

(4) ammonia and the equivalent weight of ammonia in ammonium nitrate.

In the case of a taxable chemical which is a gas (e.g., methane), the tax of $1.18 a ton is imposed on the number of cubic feet of such gas which is equivalent to 2000 lbs. on the basis of molecular weight.

The committee amendment also provides that the Secretary of the Treasury is to promulgate regulations necessary to avoid imposition of the chemical tax more than once upon the same substance. Specifically, the amendment provides that if a taxable chemical is used to manufacture or produce a second taxable chemical, then a credit against the amount of tax on the second chemical would be permitted for (but not in excess of) the amount of tax imposed on the first substance. Thus, for example, if methane is used to produce ammonia, a credit for the tax on methane would be allowed against the tax on the ammonia.

For purposes of the chemical tax, an importer is anyone who enters taxable chemicals into the United States for consumption, use, or warehousing. In the case of areas which are not subject to the general United States customs laws, an "entry" has occurred at any time that such an event would have occurred if the customs laws were applicable to that area. However, an "entry" is deemed not to have occurred in the case of fuel stores on a ship or the casual use of items such as fuel in an automobile's gas tank.

The term United States means the fifty States, the District of Columbia, Puerto Rico, and Northern Mariana Islands, the Trust Territory of the Pacific, and any possession of the United States, as well as the Outer Continental Shelf and any foreign trade zones of the United States. There is no exception from the chemical tax for bonded items.

The committee amendment contains no special administrative or compliance provisions relating to the chemical tax. Instead, the existing rules relating to excise taxes apply. Thus, the Internal Revenue Service has its full range of administrative and compliance powers available in administering and collecting the tax. Similarly, the penalties contained in existing law apply, as appropriate, to the chemical tax.

Effective date

The chemical tax imposed by the committee amendment applies for the period, October 1, 1980, through September 30, 1985.

2. Trust funds (secs. 521–522 and 531–534 of the amendment)

The committee amendment establishes two trust funds, the "Comprehensive Oil Pollution Liability Trust Fund" (hereinafter referred to as the Oil Pollution Trust Fund), and the "Hazardous Substance Pollution Liability Trust Fund" (hereinafter referred to as the Hazardous Substance Trust Fund).

In general

The Oil Pollution Trust Fund consists of any amount that is appropriated or credited to it pursuant to the committee's amendment, or transferred to it under any other provision of the Act. Therefore, the Oil Pollution Trust Fund will consist of: (1) the assets and liabilities of the Trans-Alaska Pipeline Liability Fund and the Offshore Oil Pollution Compensation Fund, (2) petroleum excise taxes imposed under the Act (new Code sec. 4601), (3) amounts recovered or collected on behalf of the Oil Pollution Trust Fund under Title I of the Act, and (4) any penalties imposed under section 311 of the Federal Water Pollution Control Act (insofar as it relates to petroleum oils) or under Title I of this Act. Disbursements from the Oil Pollution Trust Fund may not be made after September 30, 1985, or for any purpose other than paying claims which are recognizable under Title I of this Act for the specified damages described below.

The Hazardous Substance Trust Fund consists of such amounts as may be appropriated or credited to it under the committee's amendment or as may be transferred to it under any other provision of the Act. Therefore, the Hazardous Substance Trust Fund will consist of: (1) any moneys transferred to it from the section 311 fund under other provisions of the Act, (2) chemical excise taxes imposed under the Act (new Code sec. 4651), (3) any amount recovered or collected on behalf of the Hazardous Substance Trust Fund under section 311 of the Federal Water Pollution Control Act, and (4) any penalty imposed under that section (insofar as it relates to any substance other than petroleum oils). No amount may be disbursed from the Hazardous Substance Trust Fund after September 30, 1985, or for a purpose other than paying a claim under section 311 of the Federal Water Pollution Control Act for certain compensable damages described below.

Comparable damages

Under the committee amendment, the term "compensable damages" means damages asserted for any of the following items (which otherwise meet the requirements of the Act): (1) removal costs, (2) injury to, or destruction of, real or personal property, (3) injury to, or de-

struction of, natural resources, and (4) certain losses of opportunities to harvest marine life due to injury to, or destruction of, natural resources. Damages asserted for the loss of opportunity to harvest marine life are "compensable damages" only if the claimant meets specified income requirements, and then only to the extent that the damages were sustained during the 2-year period beginning on the date when the claimant first suffered such loss. The applicable income requirements are satisfied if the claimant's gross income from the harvesting of marine life for the taxable year which includes the day on which the person first suffered the loss of opportunity to harvest marine life, or for the preceding taxable year, exceeds 25 percent of his total gross income from all sources for the taxable year, or the preceding taxable year, as the case may be.

Any recovery for loss of opportunity to harvest marine life would be includible in gross income under the generally applicable income tax rules. Damages asserted for loss of opportunity to harvest marine life do not include any asserted by a person who does not meet the income tests, and a special rule applies, however, to certain claims which arise before October 1, 1980, and which would have been payable out of a fund which is transferred to one of the trust funds established by the committee's amendment. To the extent that such a claim would have been payable from a transferred fund, it is payable out of the transferee trust fund created by the amendment notwithstanding the limitations otherwise imposed by the amendment, therefore is inapplicable to marine service (and related) persons.

The committee amendment provides that no amount in either the Hazardous Substance Trust Fund or the Oil Pollution Trust Fund may be used to pay interest on any claim for any period prior to the 46th day after the day on which the claim is determined finally. For this purpose, a final determination would include authorized on-site settlements.

Trust fund borrowing

Under the committee amendment, neither the Hazardous Substance Trust Fund nor the Oil Pollution Trust Fund may borrow any amount from the United States Government.

The committee amendment provides, however, that one trust fund may lend to the other fund if certain prerequisites are satisfied. Interfund loans are permitted if: (1) the Secretary reasonably expects that the amount to be borrowed will not be needed by the lending fund for the period of the loan, (2) interest is payable on the loan at the rate comparable to the investment yield (as of the date of the loan) on interest-bearing obligations of the United States having maturity similar to that of the loan, and (3) immediately after the loan the amount in the lending fund (determined without regard to any loan made by the fund) exceeds $30 million. For purposes of making the determination as to expected revenue needs of the lending trust fund for the period of the loan, the Secretary of the Treasury is to consult with the Secretary of Transportation in the case of the Oil Pollution Trust Fund, and with the Administrator of the Environmental Protection Agency in the case of the Hazardous Substance Trust Fund. In addition to these explicit requirements, the committee anticipates that any loan will be repaid by the borrowing fund as promptly as is practicable.

Claims limitations

Under the committee amendment, no amount in either trust fund may be used to pay a claim (other than one for removal costs) to the extent that the payment of the claim would reduce the balance in the paying fund to an amount less than $30 million. Any claim which cannot be satisfied due to this limitation is to be paid in full when the trust has an amount of revenues, in excess of the limitation, adequate to allow it to satisfy the claims. In the case of claims which cannot be paid at a particular time due to the $30 million balance restriction, such suspended claims are to be paid, to the extent permitted by the balance restrictions, in the order in which they were determined finally.

The committee amendment explicitly provides that any claim for "compensable damages" filed against either trust fund may be paid out only from such trust funds. The amendment further provides that nothing in the Act, or in any amendment made by the Act, authorizes the payment by the United States Government of any portion of any claim for damages under the Act, or under any amendment made by the Act, out of any source other than from either of the trust funds established by the committee's amendment. A result of these explicit provisions is that no entitlement is established by the Act, or by any amendment made by the Act, against the United States Government.

Administrative provisions and reports

Under the committee amendment, amounts received by the Treasury are to be transferred to the appropriate trust fund at least monthly. Proper adjustments must be made in subsequently transferred amounts to the extent that prior estimates were in excess of or less than the amounts required to be transferred. In addition, the Secretary must report to Congress on the condition of each trust fund for each year ending after September 30, 1980. These reports must include a description of the financial condition of each trust fund, the results of the operation of each trust fund during the preceding fiscal year, and on its expected fiscal condition and operation during the following five fiscal years.

The Secretary may invest such portion of either trust fund as is reasonably determined not to be required to meet current withdrawals. Such investments may be made only in public debt securities.

Revenues from the trust funds may be disbursed for costs incurred by the United States by reason of a claim for compensable damages, including processing costs, investigating costs, court costs, and Government attorney fees.

Effective date

The trust funds established by the committee amendment are for the period October 1, 1980 through September 30, 1985.

3. Coordinating provisions (sec. 541 of the amendment)

The committee's amendment contains a number of provisions intended to coordinate its amendment with other provisions of the Act. Generally, the amendment provides that nothing in the Act, or in any provision of the Act (other than in the committee amendment) authorizes the creation of any fund, the payment out of any fund created by the committee amendment, the levy or collection of any fee, or the imposition of any requirement with respect to the procedure applicable to rules and regulations prescribed under the committee amendment, or any amendment made by the committee amendment. As a result, rules or regulations promulgated under the authority of the committee amendment are not subject to a legislative veto. In addition, the committee amendment clarifies that its references to named Acts limit the incorporation of all relevant provisions of those Act to their terms on the date of enactment of the committee amendment, without regard to subsequent amendment or modification.

To the extent not inconsistent with the committee's amendment, any reference in Titles I or II of the Act to a "fund" is deemed to be a reference to the Oil Pollution Trust Fund, and any reference in Title III of the Act (or in any amendment made by that Title) to a "fund" is deemed to be a reference to the Hazardous Substance Trust Fund.

4. Study (sec. 551 of the amendment)

Under the committee amendment, the Secretary of the Treasury must submit a report to Congress not later than January 1, 1985, on the feasibility of: (1) determining the environmental excise taxes imposed by the committee's amendment on the basis of the frequency of pollution by hazardous subetances and the degree of environmental harm resulting from such pollution, and (2) adjusting the environmental taxes according to various modes of transportation to reflect different risks of pollution. The Secretary also must include in this report the results of a study on the impact of the environmental taxes on the Nation's balance of trade with other countries, and on the feasibility of exempting from the taxes petrochemical feedstocks which are used for fuel.

The study required by the committee's amendment is to be conducted by the Secretary of the Treasury in consultation with the Department of Transportation, the Environmental Protection Agency, the Department of Commerce, and the U.S. Trade Representative.

III. BUDGET EFFECTS OF COMMITTEE AMENDMENT

In compliance with clause 7 of Rule XIII of the Rules of the House of Representatives, the following statement is made about the effect on the budget of the provisions of the committee's amendment to H.R. 85.

The excise taxes imposed under the committee's amendment will increase budget receipts by $138 million in fiscal year 1981 and by $150 million per year in fiscal years 1982–1985, as shown in the following table.

ESTIMATED REVENUE EFFECTS FROM EXCISE TAXES ON PETROLEUM AND SPECIFIED CHEMICALS IN H.R. 85 AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[Millions of dollars]

	Fiscal years				
	1981	1982	1983	1984	1985
Excise tax on—					
Petroleum	69	75	75	75	75
Petrochemical feedstocks	46	50	50	50	50
Inorganic feedstocks	23	25	25	25	25
Total	138	150	150	150	150

The Treasury Department agrees with this statement.

IV. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

A. Vote of the Committee

In compliance with clause 3(l)(2)(B) of Rule XI of the Rules of the House of Representatives, the following statement is made about the vote of the committee on the motion to report H.R. 85, as amended. The bill, as amended by the committee, was ordered favorably reported by voice vote.

B. Other Matters

In compliance with clauses 2(l)(3) and 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the actions on the H.R. 85 as amended.

Oversight Findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the committee advises that it was a result of the committee's hearings and deliberations with respect to the proposed fees and funds included in the "Comprehensive Oil Pollution and Liability Compensation Act" as reported by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation, that the committee concluded that it is appropriate to enact the provisions contained in the committee amendment. The committee held a public hearing on the subject on June 2, 1980, and approved the committee amendment to H.R. 85 on June 13, 1980.

New Budget Authority and Tax Expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by the committee amendment involve no new budget authority or new or increased tax expenditures.

Consultation with Congressional Budget Office on Budget Estimates

With respect to subdivision (C) of clause 2(l)(3), the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates (as indicated in part III of this document) and agrees with the budget estimates.

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(l)(3), the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject matter of the committee amendment.

Inflationary Impact

In compliance with clause 2(l)(4), the committee states that the enactment of the committee amendment is not expected to have a significant inflationary impact on prices and costs in the operation of the national economy.

The committee amendment imposes an excise tax on crude oil of 1.3 cents a barrel, the revenues from which are to be deposited into a newly established Comprehensive Oil Pollution Liability Trust Fund to finance cleanup costs and pay claims for certain damages resulting from discharges or spills of oil into the navigable waters of the U.S. Similarly, the committee amendment imposes excise taxes of $1.18 a ton on petroleum feedstocks and 31 cents a ton on specified inorganic feedstocks, the revenues from which are to be deposited into a newly established Hazardous Substance Pollution Liability Trust Fund to finance cleanup costs and pay certain claims arising from discharge or spills of hazardous substances into the navigable waters of the U.S.

Since these excise taxes and trust funds will replace certain existing fees on petroleum and the taxes are deductible for income tax purposes, the net impact on overall prices in the economy should be minimal. The increased costs attributable to the excise taxes will be small, and will be offset in savings to the nation's environment and health from the cleaning up of oil and hazardous substances spills into navigable waters provided for under the trust funds.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

* * * * * * *

Subtitle D—Miscellaneous Excise Taxes

CHAPTER 31. Special fuels.
CHAPTER 32. Manufacturers excise taxes.
CHAPTER 33. Facilities and services.
CHAPTER 34. Policies issued by foreign insurers.
CHAPTER 35. Taxes on wagering.
CHAPTER 36. Certain other excise taxes.
CHAPTER 37. Sugar.
CHAPTER 38. Environmental taxes.

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CHAPTER 38—ENVIRONMENTAL TAXES

Subchapter A. Tax on petroleum.
Subchapter B. Tax on certain chemicals.

Subchapter A—Tax on Petroleum

Sec. 4601. Imposition of tax.
Sec. 4602 Definitions and special rules.

SEC. 4601. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax 1.3 cents a barrel on—

(1) crude oil received at a United States refinery, and

(2) petroleum products entered into the United States for consumption, use, or warehousing.

(b) TAX ON CERTAIN USES AND EXPORTATION.—

(1) IN GENERAL.—If—

(A) any domestic crude oil is used in or exported from the United States, and

(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of 1.3 cents a barrel is hereby imposed on such crude oil.

(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

(c) PERSONS LIABLE FOR TAX.—

(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

(2) IMPORTED PETROLEUM PRODUCTS.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1985.

SEC. 4602. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this subchapter—

(1) CRUDE OIL.—The term "crude oil" includes crude oil condensates and natural gasoline.

(2) DOMESTIC CRUDE OIL.—The term "domestic crude oil" means any crude oil produced from a well located in the United States.

(3) PETROLEUM PRODUCT.—The term "petroleum product" includes crude oil.

(4) UNITED STATES.—

(A) IN GENERAL.—The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(B) UNITED STATES INCLUDES CONTINENTAL SHELF AREAS.—The principles of section 638 shall apply for purposes of the term "United States".

(C) UNITED STATES INCLUDES FOREIGN TRADE ZONES.—The term "United States" includes any foreign trade zone of the United States.

(5) UNITED STATES REFINERY.—The term "United States refinery" means any facility in the United States at which crude oil is refined.

(6) REFINERIES WHICH PRODUCE NATURAL GASOLINE.—In the case of any Untied States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

(7) PREMISES.—The term "premises" has the same meaning as when used for purposes of determining gross income from the property under section 613.

(8) BARREL.—The term "barrel" means 42 United States gallons.

(9) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4601 shall be the same fraction of the amount of such tax imposed on a whole barrel.

(b) ONLY 1 TAX IMPOSED WITH RESPECT TO ANY PRODUCT.—No tax shall be imposed under section 4601 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax has been imposed by such section with respect to such product.

Subchapter B—Tax on Certain Chemicals

Sec. 4651. Imposition of tax.
Sec. 4652. Definitions and special rules.

SEC. 4651. IMPOSITION OF TAX.

(a) GENERAL RULE.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be—

(1) $1.18 a ton in the case of specified petrochemical feedstocks, or

(2) 31 cents a ton in the case of specified inorganic substances.

(c) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1985.

SEC. 4652. DEFINITIONS AND SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this subchapter—

(1) TAXABLE CHEMICAL.—The term "taxable chemical" means any substance—

(A) which is a specified petrochemical feedstock or a specified inorganic substance, and

(b) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

(2) SPECIFIED PETROCHEMICAL FEEDSTOCK.—The term "specified petrochemical feedstock" means any of the following sustances:

Ethylene
Propylene
Butylene
Butadiene
Butane
Propane
Benzene
Toluene
Xylene
Napthalene
Methane
Carbon black
Ethane

(3) SPECIFIED INORGANIC SUBSTANCE.—The term "specified inorganic substance" means any of the following substances:

(A) arsenic, cadmium, chromium, lead, mercury, and the equivalent weight of the foregoing elements in arsenic trioxide, chromite, chromic acid, sodium dichromate, potassium dichromate, and lead oxide;

(B) chlorine, hydrochloric acid, hydrofluoric acid, and the equivalent weight of bromine in methyl bromide and ethylene dibromide;

(C) phosphoric acid, sulfuric acid, nitric acid, potassium hydroxide, and sodium hydroxide; and

(D) ammonia and the equivalent weight of ammonia in ammonium nitrate.

(4) UNITED STATES.—The term "United States" has the meaning given such term by section 4612(a)(4).

(5) IMPORTER.—The term "importer" means the person entering the taxable chemical for consumption, use, or warehousing.

(6) TON.—The term "ton" means 2000 pounds. In the case of any taxable chemical which is a gas, the term "ton" means the amount of such gas in cubic feet which is the equivalent of 2000 pounds on a molecular weight basis.

(7) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by section 4651 shall be the same fraction of the amount of such tax imposed on a whole ton.

(b) USE BY MANUFACTURER, ETC., CONSIDERED SALE.—If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then he shall be liable for tax under section 4651 in the same manner as if such chemical were sold by him.

(c) REFUND OR CREDIT FOR CERTAIN USES.—Under regulations prescribed by the Secretary, if—

(1) a tax under section 4651 was paid with respect to any taxable chemical, and

(2) such chemical was used by any person in the manufacture or production of any other substance the sale of which by such person would be taxable under such section,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. The amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance so manufactured or produced.

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